

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

THE THOMAS L. PEARSON AND
THE PEARSON FAMILY MEMBERS FOUNDATION,

Plaintiff and Counterclaim
Defendant,

v.

THE UNIVERSITY OF CHICAGO,

Defendant and Counterclaimant.

AND

THE UNIVERSITY OF CHICAGO,

Counterclaimant and Defendant,

v.

THE THOMAS L. PEARSON AND
THE PEARSON FAMILY MEMBERS FOUNDATION,

Counterclaim Defendant and
Plaintiff,

THOMAS L. PEARSON,

Counterclaim Defendant.

No. 18-cv-99-GKF-FHM

**THE UNIVERSITY OF CHICAGO'S SUPPLEMENTAL BRIEF IN
OPPOSITION TO PLAINTIFF'S MOTION TO COMPEL**

At the March 13, 2019 hearing on the Foundation’s motion to compel, the Court directed the parties to submit supplemental briefs concerning the discovery of faculty-hiring information. By this brief, the University (1) describes the faculty-hiring information it proposes to produce, and (2) advises the Court the extent to which the University intends to rely on its internal-evaluation process in this litigation.

The Grant Agreement expressly provides that neither the Foundation nor the Pearsons will have “any role or authority” concerning faculty appointments. Dkt. No. 57-4, Grant Agreement § 3.5. Despite this exclusion, the Foundation challenges the University’s Chaired Faculty appointments, claiming the University “Fail[ed] To Hire Qualified Faculty.” Dkt. No. 2, Compl. at 7. Whether this allegation is supported by facts turns on the faculty members’ qualifications. The allegation does not require discovery of the University’s confidential faculty-hiring and tenure process, much less create authority for the Pearsons to invade that process. As set forth in the University’s opposition brief, the caselaw does not support the production of these highly sensitive documents because any arguable relevance is outweighed by the harm of their production to the integrity of the University’s academic hiring process and academic freedom.

Nevertheless, there are categories of documents the University proposes producing that are responsive to the Foundation’s request and whose production would not invade the faculty-evaluation and hiring process.

I. The University Proposes Producing the CVs of the Challenged Pearson Chair Faculty and Other Applicants, and the University’s Guidelines for Academic Appointments

Although the University objects to the production of information about its faculty-hiring process, in an effort to reach a compromise, the University proposes producing—subject to

designating certain of these materials confidential under the Protective Order—the following categories of documents:

1. The CVs of Professors Christopher Blattman (Ramalee E. Pearson Professor of Global Conflict Studies), Oeindrila Dube (Philip K. Pearson Professor of Global Conflict Studies), and Roger Myerson (David L. Pearson Distinguished Service Professor of Global Conflict Studies).
2. The CVs of other applicants for the Pearson Institute Faculty Chairs.
3. The University's Guidelines on Academic Appointments (in addition to the Shils Report, which the University has produced).

For the reasons set forth in its opposition brief and at the hearing, the University objects to producing documents reflecting, or that are the product of, its confidential process for evaluating candidates for the Pearson Institute Chairs. This includes communications, memoranda, and other documents that reflect the evaluation of any candidates or the University's internal deliberative processes.

II. The University Does Not Intend to Rely On Faculty-Evaluation Materials That Are Protected from Discovery

To the extent that the University's evaluative materials are protected from discovery, the University does not intend to rely on those materials in this litigation. Subject to the Court's permission, and to the extent faculty hiring remains an issue in the case, the University intends to rely on the information it produces concerning faculty qualifications, its guidelines for faculty appointments, and the fact that a faculty-evaluation process occurred.

Conclusion

For the reasons stated in its opposition brief, at the March 13 hearing, and above, the University respectfully requests that the Court deny the Foundation's motion to compel discovery concerning the University's evaluation of candidates for the Pearson Institute Chairs.

Dated: April 12, 2019

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of April, 2019, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing. Based on the records currently on file, the Clerk of Court will transmit a Notice of Electronic Filing to the following registrants:

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